

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**BESTWAY INFLATABLES &  
MATERIAL CORP.,**

Plaintiff,

v.

**DOROTHEA MILLS**, an individual;  
**LAZYSIZE**, an organization believed to be  
operating in North Wales, Pennsylvania; and  
**JOHN/JANE DOE 1-10**,

Defendants.

Civil Action No.: 2:22-cv-1124

**JURY TRIAL DEMANDED**

**COMPLAINT FOR TRADEMARK INFRINGEMENT**

Plaintiff Bestway Inflatables & Materials Corp. (“Bestway”), by and through its undersigned counsel, Buchanan Ingersoll & Rooney PC and Dickinson Wright PLLC, hereby asserts its Complaint against Dorothea Mills, Lazysize, and John/Jane Doe 1-10 (collectively, “Defendants”), and hereby alleges as follows:

**INTRODUCTION**

1. This case arises out of the unauthorized use and infringement of multiple trademarks owned and used by Bestway. In violation of federal and state law, Defendants established a website claiming to sell Bestway products, including above ground swimming pools, which have been in high demand since the COVID-19 pandemic caused many people to stay home. Defendants, as the owners and/or creators of the infringing site, are taking advantage of the increased demand by claiming to sell Bestway products. On information and belief, consumers receive items in exchange for payment. It is unknown if they receive authentic Bestway products. At times consumers do not receive the correct item ordered which reflects poorly on Bestway customer service due to confusion about the source of the goods. Defendants have gone out of

their way to trick customers into believing Bestway operates or is otherwise associated or affiliated with the website, including using the Bestway name/mark in the URL of the site (bestwayonsale.com), using the Bestway logo/mark, and using multiple Bestway marks pertaining to individual products as described in more detail below. As a result, unwitting consumers are being duped into believing they are entering into legitimate transactions with Bestway or to purchase genuine Bestway products. Unless the Court intervenes, the harm to Bestway and the public at large will continue unabated.

### **THE PARTIES**

2. Bestway is a corporation organized under the laws of China. Bestway's products are sold throughout the United States by Bestway (USA), Inc.

3. Bestway does business in Pennsylvania and the Eastern District of Pennsylvania.

4. On information and belief, Defendant Lazysize is a business organization headquartered in the Eastern District of Pennsylvania and is the registrant of the site (bestwayonsale.com) selling infringing products. They are located at 100 Devon Ct., North Wales, PA 19454.

5. On information and belief, Defendant Dorothea Mills is the registrant contact, administrative contact, and technical contact for Defendant Lazysize. She is located at 100 Devon Ct., North Wales, PA 19454.

6. Bestway does not currently know the identities of Defendants John/Jane Doe 1-10.

7. Individually or in combination, Defendants established and/or operate bestwayonsale.com (the "Infringing Site") that infringes on Bestway's marks and claims to sell Bestway products.

**JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331 because of Bestway's claim for violation of the Lanham Act. 15 U.S.C. § 1121 ("The district and territorial courts of the United States shall have original jurisdiction...of all actions arising under this chapter, without regard to the amount in controversy or to diversity or lack of diversity of the citizenship of the parties.").

9. This Court has supplemental jurisdiction over Bestway's common law claims pursuant to 28 U.S.C. § 1367.

10. This Court has personal jurisdiction over Lazysize because, on information and belief, Lazysize is a business headquartered at 100 Devon Ct., North Wales, PA 19454.

11. This Court has personal jurisdiction over Dorothea Mills because, on information and belief, Dorothea Mills is an individual residing at 100 Devon Ct., North Wales, PA 19454.

12. Venue is proper pursuant to 28 U.S.C. §§ 1391(c) because Defendant(s) has committed acts of infringement in this district and does business in this judicial district. In addition, a substantial part of the events or omissions giving rise to the claim are believed to have occurred in this district. Defendants' website (bestwayonsale.com) is an interactive online store. According to the domain information provided by the website registrar's (NameCheap, Inc.) records, Defendant(s) has provided registrant contact, administrative contact, and technical contact information declaring themselves to be located at 100 Devon Ct., North Wales, PA 19454.

13. According to domain information, Dorothea Mills is the registrant contact, administrative contact, and technical contact for Lazysize and has a mailing address at 100 Devon Ct., North Wales, PA 19454.

**FACTS COMMON TO ALL CLAIMS FOR RELIEF****A. BESTWAY'S MARKS.**

14. For over 25 years, Bestway has manufactured and sold consumer products. Bestway offers over 1,000 products in four primary product lines: above-ground pools and portable spas, recreation products, sporting goods, and camping products. Bestway operates globally, including all over the United States.


15. Bestway's products are available for purchase at many large retail stores, including WalMart and Target.

16. Bestway's products are also available for purchase online, including at its own website, [www.bestwayusa.com](http://www.bestwayusa.com).

17. Bestway's products are known to consumers throughout the United States to represent genuine, high quality goods.

18. Bestway owns numerous trademarks, many of which were and remain registered with the United States Patent and Trademark Office.


19. Bestway's registered marks that are the subject of this Complaint are set forth below and referred to in this Complaint as the "Infringed Registered Marks":

<b><u>Mark</u></b>	<b><u>Registration</u></b>	<b><u>Relevant Class</u></b>
	U.S. Reg. No. 5994966  Date: 02/05/2020	IC 011. spas in the nature of heated pools; bath tubs; hydromassage bath apparatus; water filtering apparatus; swimming pool chlorinating apparatus; disinfectant dispensers for swimming pools and bath tubs.
		IC 012. boats; oars; air cushion vehicles; launches; canoes.
		IC 019. props, not of metal, in the

<b><u>Mark</u></b>	<b><u>Registration</u></b>	<b><u>Relevant Class</u></b>
		<p>nature of frames for supporting swimming pools; non-metal swimming pools; stair treads not of metal.</p> <p>IC 020. inflatable furniture; mattresses; inflatable sofas; air beds, not for medical purposes; air pillows, not for medical purposes; air cushions, not for medical purposes; air mattresses, not for medical purposes; chairs; inflatable publicity objects; sleeping pads, sleeping mats; non-metal and non-paper floating containers for storage; poles, not of metal.</p>
BESTWAY	<p>U.S. Reg. No. 5702452</p> <p>Date: 03/19/2019</p>	<p>IC 011. Water filtering apparatus; Swimming pool chlorinating apparatus; Water filtration and purification units and replacement cartridges therefor; Water heaters; Heaters for swimming pools.</p> <p>IC 019. Non-metal above ground swimming pools.</p>
BESTWAY	<p>U.S. Reg. No. 2748177</p> <p>Date: 08/05/2003</p>	<p>IC 012. Rafts and oars.</p> <p>IC 028. Inflatable float mattresses and pads and swim floats for recreational use; inflatable balls, animals, cartoon characters and similar figures, trees, fish, snow tubes, cars, planes, boats, swimming pools and play centers, such as castles and spaceships all for recreational use.</p>
BLOBZTER	<p>U.S. Reg. No. 5414243</p> <p>Date: 02/27/2018</p>	<p>IC 028. US 022 023 038 050. G &amp; S: Water slide and inflatable, floating air bag for aquatic recreational use, Inflatable toys, Swimming floats, Inflatable mats for use in association with water slides, Floating recreational lounge chairs, Floats for recreational use, namely, inflatable floating islands, Inflatable pools for recreational use, play swimming pools, Children's recreational equipment, namely, play centers in the nature of inflatable</p>

<b><u>Mark</u></b>	<b><u>Registration</u></b>	<b><u>Relevant Class</u></b>
		swimming pools with attached or detachable inflatable structures, toys and accessories, Inflatable float mattresses or pads for recreational use, Play mat for use as a water slide, Play equipment for aquatic recreational use, namely, jumping tube gym.
CHEMCONNECT	U.S. Reg. No. 6486967  Date: 09/14/2021	IC 011. US 013 021 023 024 031 034. G & S: Chlorinating units for swimming pool and spas; Swimming pool and spa chlorinating apparatus.
COOLERZ	U.S. Reg. No. 5095945  Date: 12/06/2016	IC 012. Inflatable boats, inflatable kayaks. FIRST USE: 20140501. FIRST USE IN COMMERCE: 20140501  IC 028. inflatable toys, recreational goods and sporting goods namely, swimming floats, floating action skill games, water play grounds in the nature of water slides, party swimming floats; inflatable floating inner tubes, floating recreational lounge chairs; surf mats in the nature of traction pads for surfboards, inflatable trampolines, inflatable towable toys, and stand-up paddle boards.
FAST SET	U.S. Reg. No. 3442181  Date: 6/3/2008	IC 019. Non-metal above-ground swimming pool.
FAST SET	U.S. Reg. No. 2743728  Date: 6/29/2003	IC 028. Inflatable pools.
FILL N' FUN	U.S. Reg. No. 76542652  Date: 07/19/2005	IC 028. US 022 023 038 050. G & S: Play swimming pools.
FLOWCLEAR	U.S. Reg. No. 5457592	IC 001. US 001 005 006 010 026 046. G & S: Chemicals for the purification

<b><u>Mark</u></b>	<b><u>Registration</u></b>	<b><u>Relevant Class</u></b>
	<p>Date: 05/01/2018</p>	<p>of water used in swimming pools; Chemical analysis kit for testing swimming pool water; Test strips impregnated with reagents for testing swimming pool water.</p> <p>IC 007. US 013 019 021 023 031 034 035. G &amp; S: Water pumps for swimming pools; Automatic swimming pool cleaners and parts therefor.</p> <p>IC 011. US 013 021 023 031 034. G &amp; S: Water filtering apparatus; Swimming pool chlorinating apparatus; Water filtration and purification units and replacement cartridges therefor; Water heaters; Heaters for swimming pools.</p> <p>IC 020. US 002 013 022 025 032 050. G &amp; S: Non-metal step ladders; Ladders of wood or plastics.</p> <p>IC 021. US 002 013 023 029 030 033 040 050. G &amp; S: Hand-operated, non-electric pool cleaning instruments, namely, pole with interchangeable vacuum and skimmer heads, cleaning head with reusable debris bag, skimmer, angled conversion nozzle, vacuum hose.</p> <p>IC 022. US 001 002 007 019 022 042 050. G &amp; S: Unfitted swimming pool covers; Unfitted tarps for use as a protective layer underneath above ground swimming pools; Swimming pool skimming nets.</p>
FREEZE SHIELD	<p>U.S. Reg. No. 6186013</p> <p>Date: 10/27/2020</p>	<p>IC 011. US 013 021 023 031 034. G &amp; S: Filters, heaters and pumps sold in combination for use in spas.</p>

<b><u>Mark</u></b>	<b><u>Registration</u></b>	<b><u>Relevant Class</u></b>
	<p>U.S. Reg. No. 4940366</p> <p>Date: 4/19/2016</p>	<p>IC 028. Inflatable toys, floats and recreational devices, namely, inflatable mats, lounges, islands, boats, rafts, balls, puppets, vehicles, structures and animals; toy kayaks; inflatable pools; play swimming pools; water slides; inflatable play centers and activity centers; rideable objects, namely, toy vehicles in the shape of animals and vehicles; floating mattresses, lounges, mats, armchairs, seats and islands, all for recreational use; trampolines; inflatable toys in the nature of jumping tubes and castles; stand-up paddle boards and surfboards.</p>
H2O GO	<p>U.S. Reg. No. 4741874</p> <p>Date: 5/26/2015</p>	<p>IC 028. Inflatable toys, floats and recreational devices, namely, inflatable mats, lounges, islands, boats, rafts, balls, puppets, vehicles, structures and animals; toy kayaks; inflatable pools; play swimming pools; water slides; inflatable play centers and activity centers; rideable objects, namely, toy vehicles in the shape of animals and vehicles; floating mattresses, lounges, mats, armchairs, seats and islands, all for recreational use; trampolines; inflatable toys in the nature of jumping tubes and castles; stand-up paddle boards and surfboards.</p>
HYDRO FORCE	<p>U.S. Reg. No. 2967876</p> <p>Date: 6/12/2005</p>	<p>IC 028. Inflatable inner tubes and swim floats for recreational use.</p>
HYDROJET	<p>U.S. Reg. No. 6465492</p> <p>Date: 08/24/2021</p>	<p>IC 011. US 013 021 023 024 031 034. G &amp; S: Bath tubs; Spa baths in the nature of heated pools; Spa pools in the nature of heated pools; Portable spa pools being spas in the nature of heated pools; Inflatable spa pools being spas in the nature of heated pools; Hot tubs; Heated pools being spas in the nature of heated pools.</p>



<u>Mark</u>	<u>Registration</u>	<u>Relevant Class</u>
HYDROJET PRO	U.S. Reg. No. 6505863  Date: 10/05/2021	IC 011. US 013 021 023 024 031 034. G & S: Bath tubs; Spa baths in the nature of heated pools; Spa pools in the nature of heated pools; Portable spa pools being spas in the nature of heated pools; Inflatable spa pools being spas in the nature of heated pools; Hot tubs; Heated pools being spas in the nature of heated pools.
POWER STEEL	U.S. Reg. No. 4827864  Date: 10/06/2015	IC 006. US 002 012 013 014 023 025 050. G & S: metal swimming pools.
SIDEWINDER	U.S. Reg. No. 6064215	IC 007. US 013 019 021 023 031 034 035. G & S: Electric pumps for use for swimming pools and spas.
STEEL PRO	U.S. Reg. No. 3006426  Date: 10/11/2015	IC 006. Metal swimming pools.
STEEL PRO MAX	U.S. Reg. No. 5628831  Date: 12/11/2018	IC 019. Non-metal swimming pools incorporating a steel support structure.

20. True and correct copies of the registration certificates for each of the Infringed Registered Marks are collectively attached as **Exhibit A**.

21. Bestway also adopted the following trademark for use in connection with its products. Bestway possesses a common law trademark in the mark. Bestway owns the U.S. Trademark Application number for this common law trademark. Bestway's common law mark that is the subject of this Complaint is set forth below and referred to in this Complaint as the "Infringed Common Law Mark":

<u>Mark</u>	<u>Application Serial No. &amp; First Use Date</u>	<u>Relevant Class</u>
TRITECH	Serial No. 90650195  First Use: 12/2015	IC 020. US 002 013 022 025 032 050. G & S: Air beds not for medical purposes; Air mattresses for use when camping.

22. Together, the Infringed Registered Marks and Infringed Common Law Mark are referred to as the “Infringed Marks”.

23. Bestway owns the goodwill associated with the Infringed Marks.

24. Bestway has used the BESTWAY mark in commerce for over 25 years in connection with the manufacture and sale of its goods and the BESTWAY mark has become well known in the inflatable products industry as a source for high quality products.

25. Because the COVID-19 pandemic has caused many people to stay home, demand for Bestway’s pools has increased drastically causing them to be sold out at times since June, 2020.

#### **B. INFRINGING SITE.**

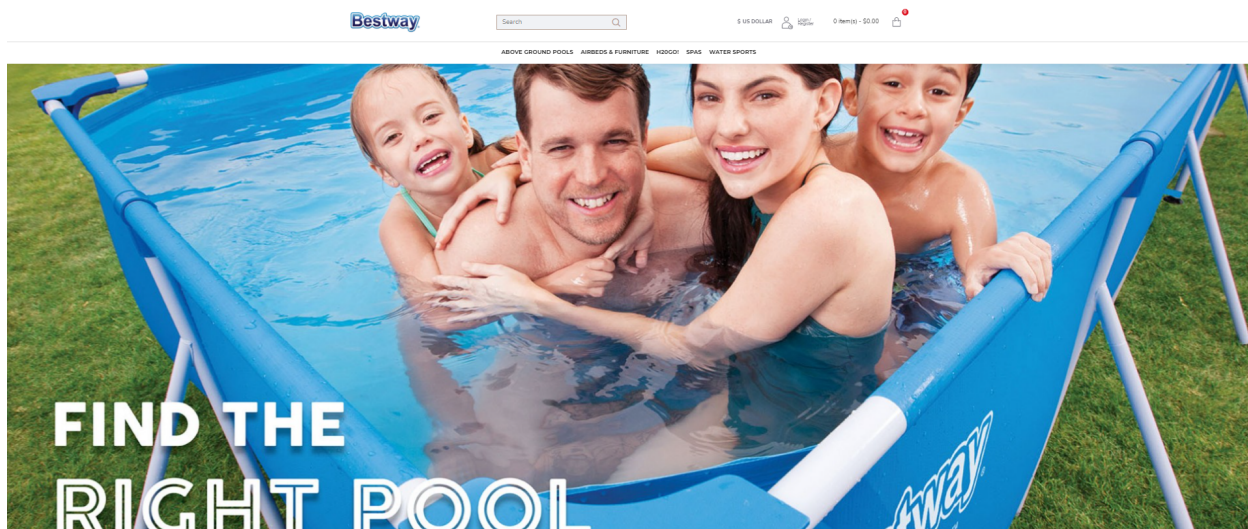
26. Defendants set up, established, or operate a website that infringes upon Bestway’s marks.

27. The Infringing Site currently known to Bestway is bestwayonsale.com.

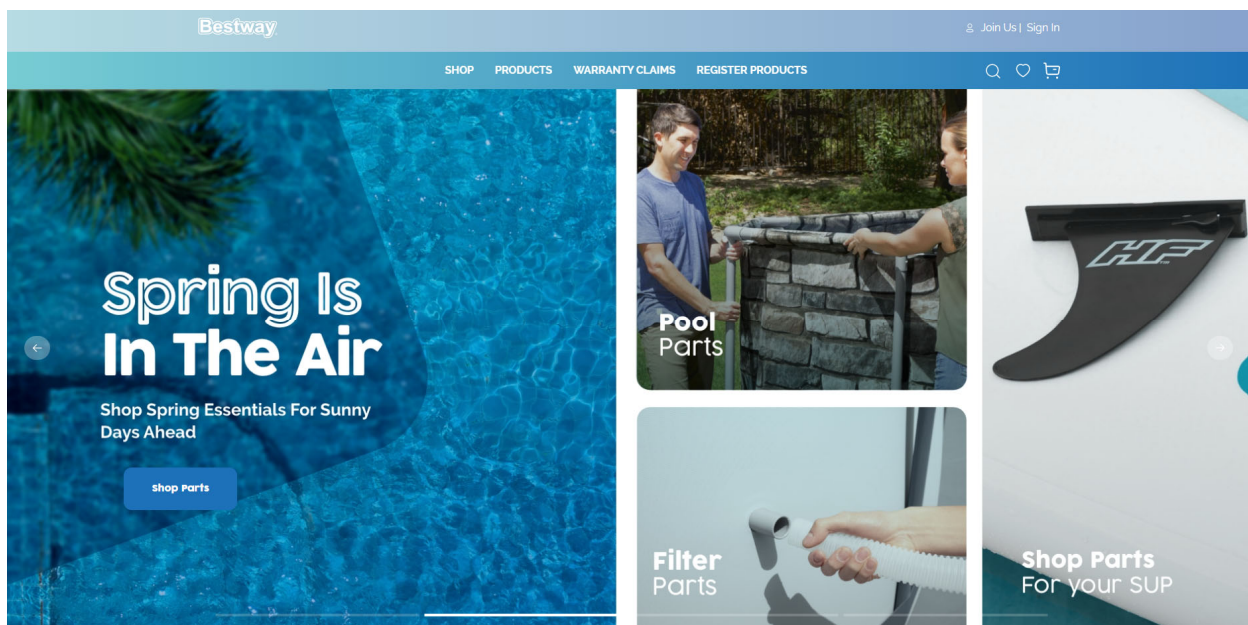
28. The Infringing Site was first registered on November 13, 2020.

29. The Infringing Site purports to sell numerous Bestway products, under Bestway’s Marks, at significantly reduced prices.

30. Defendants intentionally designed the Infringing Site to mimic the official Bestway site (bestwaycorp.us). The Infringing Site uses Bestway's logo (U.S. Reg. No. 5994966) on the top of the Home Page:


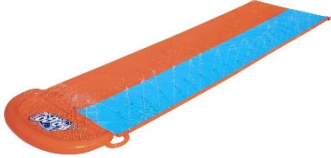












Infringing Site



Official Bestwaycorp.us Site

31. The Infringing Site also uses multiple Bestway product photographs, presumably copied directly from Bestway's own authorized website, as if they were available for purchase on the Infringing Site. For example:

Infringing Site	Official Bestway Site
 <p data-bbox="207 737 786 806"><a href="https://www.bestwayonsale.com/h2ogo/h2ogo-double-water-slide">https://www.bestwayonsale.com/h2ogo/h2ogo-double-water-slide</a></p>	 <p data-bbox="914 737 1317 772"><a href="https://bestwayusa.com/52328e">https://bestwayusa.com/52328e</a></p>
 <p data-bbox="212 1066 781 1136"><a href="https://www.bestwayonsale.com/h2ogo/bestway-41122e-flamingo-float-pool-pink">https://www.bestwayonsale.com/h2ogo/bestway-41122e-flamingo-float-pool-pink</a></p>	 <p data-bbox="914 1077 1317 1113"><a href="https://bestwayusa.com/41475e">https://bestwayusa.com/41475e</a></p>
 <p data-bbox="232 1509 756 1612"><a href="https://www.bestwayonsale.com/airbeds-and-furniture/bestway-tritech-airbed-12-inch-with-built-in-ac-pump-twin">https://www.bestwayonsale.com/airbeds-and-furniture/bestway-tritech-airbed-12-inch-with-built-in-ac-pump-twin</a></p>	 <p data-bbox="914 1509 1317 1545"><a href="https://bestwayusa.com/67929e">https://bestwayusa.com/67929e</a></p>

Infringing Site	Official Bestway Site
 <p data-bbox="207 596 781 741"> <a href="https://www.bestwayonsale.com/above-ground-pools/bestway-15ft-x-48in-steel-pro-frame-above-ground-pool-w-cartridge-filter-pump">https://www.bestwayonsale.com/above-ground-pools/bestway-15ft-x-48in-steel-pro-frame-above-ground-pool-w-cartridge-filter-pump</a> </p>	 <p data-bbox="912 602 1317 636"> <a href="https://bestwayusa.com/56678e">https://bestwayusa.com/56678e</a> </p>
 <p data-bbox="207 1203 781 1346"> <a href="https://www.bestwayonsale.com/above-ground-pools/bestway-56498-deluxe-splash-9-8-x-6-7-x-26-kids-rectangular-above-ground-swimming-pool-pool-only">https://www.bestwayonsale.com/above-ground-pools/bestway-56498-deluxe-splash-9-8-x-6-7-x-26-kids-rectangular-above-ground-swimming-pool-pool-only</a> </p>	 <p data-bbox="912 1197 1317 1230"> <a href="https://bestwayusa.com/56496e">https://bestwayusa.com/56496e</a> </p>
 <p data-bbox="240 1673 748 1774"> <a href="https://www.bestwayonsale.com/above-ground-pools/bestway-58012-filter-cartridge-iii">https://www.bestwayonsale.com/above-ground-pools/bestway-58012-filter-cartridge-iii</a> </p>	 <p data-bbox="912 1677 1317 1711"> <a href="https://bestwayusa.com/58012e">https://bestwayusa.com/58012e</a> </p>



32. The Infringing Site unlawfully uses one or more of Bestway's Marks in connection with the sale or purported sale of Defendants' products. *See Exhibit B* (list of the Infringed Marks and examples of Defendants' infringement with those marks).

33. On information and belief, Defendants are not selling legitimate Bestway products.

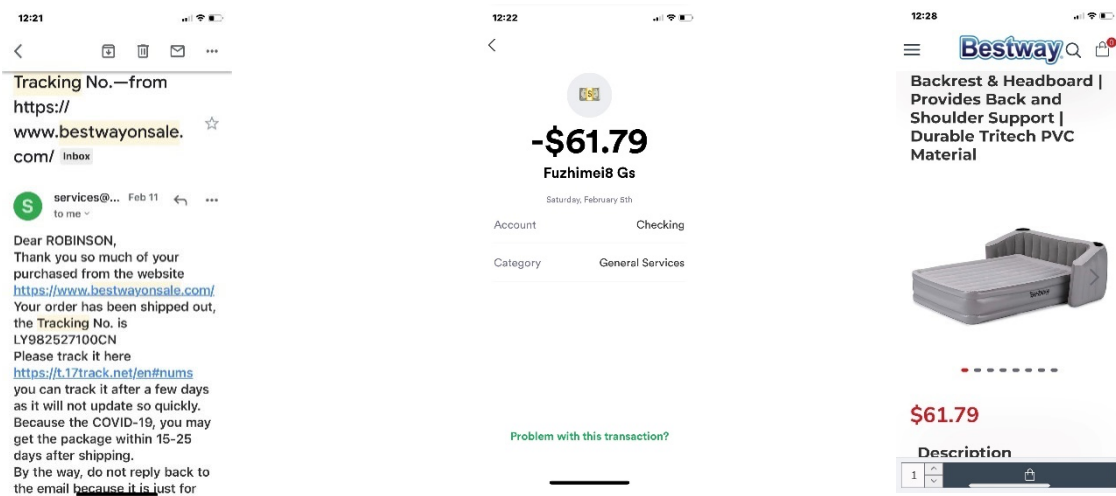
34. Defendants appear to be taking advantage of the high demand and low supply relative to above-ground swimming pools caused by the COVID-19 pandemic.

35. Upon information and belief, the only way to "purchase" one of the products from the Infringing Sites is to use PayPal.

36. Defendants are misleading consumers into believing they are entering into legitimate transactions with Bestway to purchase Bestway products.

37. On March 16, 2022, Bestway received notice via a customer complaint/assistance page that a customer attempted to purchase an air mattress, and instead received gloves. Believing the website to be legitimate, the customer contacted Bestway to complain.

38. On March 16, 2022, Bestway contacted the customer and was provided with the following images which appear to be screenshots from the customer's cell phone:



**COUNT I: VIOLATION OF 15 U.S.C. § 1114 –  
TRADEMARK INFRINGEMENT AND COUNTERFEITING OF FEDERALLY  
REGISTERED MARKS**

39. Bestway restates and realleges the foregoing allegations as if fully stated herein.

40. Defendants used and are continuing to use the Infringed Registered Marks in commerce in connection with the offering for sale of products that is likely to cause, and has in fact caused, confusion, mistake, or deception.

41. Defendants have and are continuing to reproduce, counterfeit, copy, and colorably imitate the Infringed Registered Marks and apply such reproduction, copy, and colorable imitation to advertisements intended to be used in commerce in connection with the offering for sale of goods in a way that is likely to cause confusion, mistake, or deception.

42. Defendants do not have permission to use the Infringed Registered Marks.

43. The actions alleged in this Complaint were committed with knowledge that such imitation of the Infringed Registered Marks would, and were intended to, cause confusion, to cause mistake, or to deceive.

44. Defendants' use of the Infringed Registered Marks was and is willful and constitutes use of counterfeit marks.

45. As a result of the unlawful conduct of Defendants, including the use of the Infringed Registered Marks, Bestway has been damaged, has suffered irreparable harm, and is likely to continue to suffer irreparable harm unless Defendants' actions are enjoined by this Court.

46. Bestway is entitled to its actual damages (or in the alternative, statutory damages pursuant to 15 U.S.C. § 1117(c)), an amount equal to three times Defendants' profits following equitable accounting, plus interest, costs, and attorneys' fees.

**COUNT II: VIOLATION OF 15 U.S.C. § 1125(a) –**  
**FALSE DESIGNATION OF ORIGIN AND**  
**FALSE OR MISLEADING DESCRIPTION OF FACT**

47. Bestway restates and realleges the foregoing allegations as if fully stated herein.

48. Defendants' actions as set forth in this Complaint and Defendants' unlawful use of the Infringed Marks, individually and in combination, violate 15 U.S.C. § 1125(a).

49. Defendants are aware that Bestway owns the Infringed Marks.

50. Defendants used and are continuing to use the Infringed Marks without approval and in a manner that is likely to cause confusion.

51. Defendants used and are continuing to use the Infringed Marks, without approval and in a manner that is deceptive as to the affiliation, connection, or association of Defendants with Bestway.

52. Defendants used and are continuing to use words, terms, and names likely to confuse or deceive individuals into believing that the goods Defendants are purporting to sell come from Bestway, or that Bestway sponsors or approves of the goods.

53. Defendants used and are continuing to use words, terms, names, false or misleading descriptions of fact, and false or misleading representations of fact in commercial advertising or promotion that misrepresents the nature, characteristics, and qualities of Defendants' goods and commercial activities.

54. For example, through the Infringing Site, Defendants are:

- a. Using the same images as Bestway to promote their products;
- b. Using the same trade names as Bestway to promote their products;
- c. Replicating the look and feel of Bestway's official site including by using the Bestway logo and product images; and



- d. Using confusing and deceptive text implying that the site is associated with Bestway including, for example, a timeline of Bestway company milestones on the ‘About Us’ page listing the name, year, and location of establishment for Bestway affiliates and subsidiaries along with images of Bestway offices and factories. (<https://www.bestwayonsale.com/about-us>).

55. Defendants’ actions were taken with knowledge and with the intent to cause confusion or mistake and to deceive the public as to the source, origin, sponsorship, or approval of Defendants’ products and website.

56. Defendants acted with knowledge and with the intent that their actions would confuse third parties into believing they were purchasing genuine Bestway products or purchasing products from Bestway.

57. As a result of the illegal, willful, and unauthorized conduct of Defendants, Bestway has incurred losses to its business and to the value of its marks, lost sales, loss of goodwill, and other losses for which Bestway is entitled to money damages pursuant to 15 U.S.C. § 1125.

58. Bestway is entitled to its actual damages, in an amount equal to Defendants’ profits following equitable accounting, plus interest, costs, and attorneys’ fees.

**COUNT III: VIOLATION OF 15 U.S.C. § 1125(d) –  
CYBERPIRACY**

59. Bestway restates and realleges the foregoing allegations as if fully stated herein.

60. Defendants registered, are trafficking in, and are using a domain name (bestwayonsale.com) that is, and was at the time of registration of the domain name, identical or confusingly similar to the distinctive and famous Bestway mark.

61. At all times, Defendants acted with a bad faith intent to profit from the Bestway mark as evidenced by:

- a. Defendants have no trademark or other intellectual property rights in the domain name;
- b. The domain name does not consist of Defendants' legal name;
- c. Upon information and belief, Defendants have never previously used the domain name in connection with a bona fide offering of any goods or services;
- d. Defendants do not have a bona fide noncommercial or fair use of the mark; and
- e. Defendants' intent was and is to divert customers to the Infringing Site by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site.

62. Defendants did not have reasonable grounds to believe that their use of the domain name was lawful or otherwise constituted fair use.

63. Bestway is entitled to its actual damages and profits, (or statutory damages pursuant to 15 U.S.C. § 1117(d)), and a court order transferring the domain name to Bestway pursuant to 15 U.S.C. § 1125(d)(1)(C).

**COUNT IV: COMMON LAW TRADEMARK INFRINGEMENT  
AND UNFAIR COMPETITION**

64. Bestway restates and realleges the foregoing allegations as if fully stated herein.

65. Defendants' acts as described in this Complaint amount to common law trademark infringement and unfair competition.

66. Defendants are engaged in unfair and unethical business practices that are harmful to Bestway and the general public.

67. For purposes of deceiving the public, Defendants are simulating the name, symbols, or devices employed by Bestway (including the Infringed Marks), thus falsely inducing consumers to pay Defendants money under the mistaken belief the consumer is entering into a transaction with Bestway and will receive Bestway product(s) in return.

68. Defendants are engaged in the practice of “passing off” or “palming off” Defendants’ products as if they were manufactured and sold by Bestway.

69. Defendants acted with the intent to engage in common law trademark infringement and unfair competition, and have done so in a fraudulent, malicious, willful and wanton manner, and in wanton disregard of Bestway’s rights.

70. As a result of Defendants’ illegal conduct, Bestway has been damaged, has suffered irreparable harm, and is likely to continue to suffer irreparable harm unless Defendants’ actions are enjoined by this Court.

71. Bestway is entitled to its actual damages, an amount equal to Defendants’ profits following equitable accounting, plus interest, costs, and attorneys’ fees.

#### **DEMAND FOR JURY TRIAL**

72. Bestway demands a trial by jury under the Federal Rules of Civil Procedure 38 and 39 for all issues triable by jury.

#### **REQUEST FOR RELIEF**

WHEREFORE, Bestway respectfully requests that this Honorable Court:

1) Issue a permanent injunction prohibiting Defendants and each of their agents, servants, employees, attorneys, and any other persons who are in active concert or participation with any of them from:

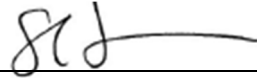
- a. Using the “Bestway” name, using any of the Infringed Marks or imitating the Infringed Marks in connection with the offering for sale or advertising of any products;
  - b. Engaging in any action to pass off Defendants’ products as Bestway products;
  - c. Engaging in further actions to interfere with Bestway’s rights in its marks or in damaging Bestway’s goodwill or reputation;
  - d. Continuing to operate the Infringing Site, and any similar site(s);
- 2) Order that the domain name bestwayonsale.com be transferred to Bestway;
  - 3) Require Defendants to account for their profits;
  - 4) Award Bestway an amount equal to three times Defendants’ profits;
  - 5) Award Bestway its actual damages, or in the alternative, statutory damages pursuant to 15 U.S.C. § 1117(c) and (d);
- 6) Award Bestway the costs associated with bringing this action;
  - 7) Award Bestway reasonable attorneys’ fees; and

8) Any other relief the Court deems just and proper.

Dated: March 23, 2022

Respectfully submitted,

**BUCHANAN INGERSOLL & ROONEY PC**



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